

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

IN RE: ASBESTOS LITIGATION

GLEND A GUSTAVSON, individually and  
as Successor in Interest to the Estate of  
CARL D. GUSTAVSON, deceased,

Plaintiff,

v.

AIR & LIQUID SYSTEMS  
CORPORATION, et al.

Defendants.

C.A. No. 17-1472 (MN) (SRF)

**ORDER ADOPTING REPORT AND RECOMMENDATION**

WHEREAS, on May 14, 2019, Magistrate Judge Fallon issued a Report and Recommendation (“the Report”) (D.I. 147) in this action, recommending that the Court grant the unopposed motions for summary judgment of Defendants Air & Liquid Systems Corporation, as successor by merger to Buffalo Pumps, Inc. (D.I. 130), Aurora Pump Company (D.I. 124), Blackmer Pump Company (D.I. 116), BW/IP, Inc. (D.I. 126), CBS Corporation (D.I. 119), Flowserve US Inc. solely as successor to Edwards Vogt Valve Company, Vogt Valve Co., Nordstrom Valves, Inc., Edward Valves, Inc. and Rockwell Manufacturing Company (D.I. 113), FMC Corporation, on behalf of its former Northern Pump and Chicago Pump businesses (D.I. 114), Gardner Denver Inc. (D.I. 120), Warren Pumps, LLC (D.I. 132), Anchor/Darling Valve Company (D.I. 128), and Eaton Corporation<sup>1</sup> individually a/s/i Cutler Hammer Inc. (D.I. 122);

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<sup>1</sup> As the Report notes, Easton did not file an opening brief with its motion and, therefore, “the court [could not] assess the merits of Easton’s motion for summary judgment.” The Report, however, found that “dismissal without prejudice is warranted based on plaintiff’s failure to timely oppose Eaton’s motion pursuant to the scheduling order, Fed. R. Civ. P. 41(b), Fed. R. Civ. P. 56(c)(1), and Fed. R. Civ. P. 56(e)(2). See also *Miller v. Ashcroft*,

WHEREAS, no party filed objections to the Report pursuant to 72(b)(2) of the Federal Rules of Civil Procedure in the prescribed period, and the Court finding no clear error on the face of the record;

THEREFORE, IT IS HEREBY ORDERED this 4th day of June 2019 that the Report and Recommendation is ADOPTED.

Defendant Air & Liquid Systems Corporation, as successor by merger to Buffalo Pumps, Inc.'s Motion for Summary Judgment (D.I. 130) is GRANTED.

Defendant Aurora Pump Company's Motion for Summary Judgment (D.I. 124) is GRANTED.

Defendant Blackmer Pump Company's Motion for Summary Judgment (D.I. 116) is GRANTED.

Defendant BW/IP, Inc.'s Motion for Summary Judgment (D.I. 126) is GRANTED.

Defendant CBS Corporation's Motion for Summary Judgment (D.I. 119) is GRANTED.

Defendant Flowserve US Inc. solely as successor to Edwards Vogt Valve Company, Vogt Valve Co., Nordstrom Valves, Inc., Edward Valves, Inc. and Rockwell Manufacturing Company's Motion for Summary Judgment (D.I. 113) is GRANTED.

Defendant FMC Corporation's Motion for Summary Judgment (D.I. 114) on behalf of its former Northern Pump and Chicago Pump businesses is GRANTED.

Defendant Gardner Denver Inc.'s Motion for Summary Judgment (D.I. 120) is GRANTED.

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76 F. App'x 457,462 (3d Cir. 2003) (citing Fed. R. Civ. P. 56; *Lorenzo v. Griffith*, 12 F.3d 23, 28 (3d Cir. 1993))." (D.I. 147, n.2).

Defendant Warren Pumps, LLC's Motion for Summary Judgment (D.I. 132) is GRANTED.

Defendant Anchor/Darling Valve Company's Motion for Summary Judgment (D.I. 128) is GRANTED.

Defendant Eaton Corporation individually a/s/i Cutler Hammer Inc.'s Motion for Summary Judgment (D.I. 122) is GRANTED.

The Clerk of Court is HEREBY DIRECTED to enter JUDGMENT in favor of Defendants Air & Liquid Systems Corporation, as successor by merger to Buffalo Pumps, Inc., Aurora Pump Company, Blackmer Pump Company, BW/IP, Inc., CBS Corporation, Flowserve US Inc. solely as successor to Edwards Vogt Valve Company, Vogt Valve Co., Nordstrom Valves, Inc., Edward Valves, Inc. and Rockwell Manufacturing Company, FMC Corporation, on behalf of its former Northern Pump and Chicago Pump businesses, Gardner Denver Inc., Warren Pumps, LLC, Anchor/Darling Valve Company, and Eaton Corporation individually a/s/i Cutler Hammer Inc. and against Plaintiff Glenda Gustavson, individually and as Successor in Interest to the Estate of Carl D. Gustavson, deceased.

  
The Honorable Maryellen Noreika  
United States District Court Judge